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HAWAII LABOR RELATIONS BOARD

STATE OF HAWAII

In the Matter of DIRECTOR,) CASE NO. OSH 2003-7
DEPARTMENT OF LABOR AND) (Inspection No. 306257213)
INDUSTRIAL RELATIONS,)
) STIPULATION AND SETTLEMENT
Complainant,) AGREEMENT; EXHIBIT A; APPROVAL
) AND ORDER
vs.)
)
SHELL MANAGEMENT HAWAII, INC.,)
)
Respondent.)
)

STIPULATION AND SETTLEMENT AGREEMENT

Complainant Director of Labor and Industrial Relations ("Director") and Respondent Shell Management Hawaii, Inc. ("Respondent") having reached a full and complete settlement of the above-captioned contested case presently pending before the Hawaii Labor Relations Board ("Board") stipulate and agree as follows:

On or about March 27, 2003 through March 28, 2003, the Director, by and through the State of Hawaii's Occupational Safety and Health Division ("HIOSH"), inspected Respondent's workplace located at 75-6842 Alii Dr., Bldg. 6, Kailua-Kona, Hawaii 96740.

As a consequence of said inspection, the Director, through HIOSH's Administrator, issued a Citation and Notification of Penalty on May 20, 2003 ("Citation") to Respondent alleging violations of the Hawaii Occupational Safety and Health Standards and assessed an aggregate penalty of \$3,300.00. *See* Exhibit A.

Respondent timely contested the Citation.

THEREFORE, to avoid the expense of litigation and to compromise and settle the above-captioned case, the parties, by and through their respective representatives, stipulate and agree as follows:

1. The Board has jurisdiction over this contested case pursuant to section 396-11, Hawaii Revised Statutes ("HRS").
2. At all relevant times, Respondent maintained a workplace at 75-6842 Alii Dr., Bldg. 6, Kailua-Kona, Hawaii.
3. At all relevant times, Respondent was an employer, as defined in HRS § 396-3, and employed employees, as defined in HRS § 396-3, and was therefore subject to the requirement of HRS chapter 396, the Hawaii Occupational Safety and Health Law.
4. Respondent agrees that it has or will abate each violation listed in the Citation, as amended by this Agreement, in compliance with the abatement requirements under Hawaii Administrative Rule § 12-51-22. Respondent shall submit the completed abatement certification to HIOSH no later than 30 days after approval of this Agreement; failure to timely do so may result in additional penalties or follow up inspections.
5. The Citation is amended by withdrawing Citation 1, Item 3 (29 CFR § 1910.264(c)(4)(iii)(a)), characterized as serious, and the penalty of \$1,100.00 assessed for that violation.
6. The Director reduces the remaining aggregate penalty of \$2,200.00 to \$1,500.00, which shall be paid in full to the Director of Budget and Finance upon the execution

of this Agreement.

7. Except for the stipulated amendments described above, the Citation is confirmed in all other respects and upon approval by the Board, this Agreement and the Citation, as amended, shall become a final order of the Director.

8. Respondent shall post a copy of this Agreement and Order in a prominent place at or near the location of the posting of the Citation, and the Agreement and Order shall remain posted for three working days (excluding weekends and State holidays).

9. Respondent shall continue to comply with HRS chapter 396, the Hawaii Occupational Safety and Health Law, and the related rules.

10. Nothing in this Agreement shall bar the Director from taking any action regarding future acts or practices by Respondent which may be alleged to violate HRS chapter 396, the Hawaii Occupational Safety and Health Law, or the related rules.

DATED: Honolulu, Hawaii, August 14, 2003.

SHELL MANAGEMENT HAWAII, INC.

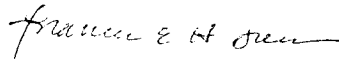
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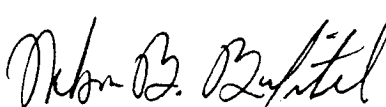

General Manager

APPROVED AS TO FORM:

DIRECTOR OF LABOR AND
INDUSTRIAL RELATIONS



FRANCES E. H. LUM
Deputy Attorney General



NELSON B. BEFTEL

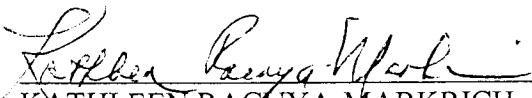
Attorney for Director of Labor and
Industrial Relations, State of Hawaii

APPROVED AND SO ORDERED BY
HAWAII LABOR RELATIONS BOARD:

ORDER NO. 60


BRIAN K. NAKAMURA, Chair


CHESTER C. KUNITAKE, Member


KATHLEEN RAQUYA-MARKRICH, Member

In the Matter of DIRECTOR, DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS,
vs. SHELL MANAGEMENT HAWAII, INC., STIPULATION AND SETTLEMENT
AGREEMENT; EXHIBIT A; APPROVAL AND ORDER